

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF PUERTO RICO**

ISMAEL AGUAYO ROJAS,  
Plaintiff

Civil No. 05-1703 (HL)

v.

HOSPITAL RYDER MEMORIAL, INC.,  
ET AL.,  
Defendants

**ORDER**

Plaintiff Ismael Aguayo Rojas brings this diversity medical malpractice tort claim under Article 1802 of the Puerto Rico Civil Code. Before the Court are Defendants' Motion to Dismiss for lack of subject matter jurisdiction (Docket No. 30) and Plaintiff's Motion requesting Defendant's Motion for Dismissal be denied for failure to comply with Local Rules (Docket No. 31). Defendants argue that plaintiff fails to establish the requisite jurisdictional amount required in diversity cases. To support its argument, the Defendants submitted the transcript of the plaintiff's deposition in the Spanish language as Exhibit A to their motion, but failed to include a certified translation of the plaintiff's deposition. *See* Local Rules 10(b).

To determine whether a cause of action satisfies the jurisdictional minimum, the Supreme Court set out a test in *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283 (1938). The general rule is that unless the law provides otherwise, the amount claimed by a plaintiff controls as long as it is made in good faith. *Id.* at 288. Therefore, a court can only dismiss an action for insufficiency of amount in controversy only if "it is apparent, to a legal certainty...that the plaintiff never was entitled to recover" an amount equal to the jurisdictional minimum. *Id.*

While ruling on the Defendants' Motion to Dismiss, the Court will not consider the plaintiff's deposition filed in the Spanish language, as local rules require all documents not in the English language be accompanied by a certified translation. *See* Local Rules 10(b); *Aguiar-Carrasquillo v. Agosto-Alicea*, 445 F.3d 19, 24 (1st Cir. 2006) ("In the past, we have refused to consider materials submitted to the court in any language other than English, and we continue to do so."); 48 U.S.C. § 864 (noting "[a]ll pleadings and proceedings in the United States District Court for the District of Puerto Rico shall be conducted in the English language"). Consequently, the Defendants have provided no evidence that it is apparent, to a legal certainty, that Plaintiff Aguayo is not entitled to recover an award in excess of \$75,000.00 or that the amount claimed by Aguayo was made in bad faith. Accordingly, Defendants' Motion to dismiss for lack of jurisdictional amount is **denied** and Plaintiff's motion requesting the Defendants' Motion for dismissal be denied for failure to comply with Local Rules is **granted**.

**IT IS SO ORDERED.**

San Juan, Puerto Rico, December 5, 2006

S/ HECTOR M. LAFFITTE  
Senior United States District Judge